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October 6, 2023

Michael Gans
Clerk, United States Court of Appeals for the Eighth Circuit
Thomas F. Eagleton Courthouse
111 South 10th Street, Room 24.329
St. Louis, MO 63102

Re: *Dylan Brandt, et al. v. Tim Griffin, et al.*, No. 23-2681: Federal Rule of Appellate Procedure 28(j) letter regarding *Poe, et al., v. Drummond, et al.*, No. 23-CV-177-JFH-SH (N.D. Okla. Oct 5, 2023) (slip opinion (“Op.”) attached)

Dear Mr. Gans:

Yesterday, the United States District Court for the Northern District of Oklahoma issued the attached decision denying a preliminary injunction sought by the plaintiffs in that case based on the same claims at issue in this case. That court followed the reasoning of the Sixth and Eleventh Circuits in rejecting the plaintiffs’ substantive-due-process and equal-protection challenges to Oklahoma’s law restricting pediatric gender-transition procedures. *See generally* Op. (citing *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205 (11th Cir. 2023), and *L.W., by and through Williams v. Skrmetti*, — F.4th —, 2023 WL 6321688 (6th Cir. Sept. 28, 2023)).

The decision in *Poe* is another example of the growing body of authority that rejects the reasoning of the panel opinion in *Brandt by & through Brandt v. Rutledge*, 47 F.4th 661 (8th Cir. 2022), and further underscores why this Court should grant initial hearing en banc.

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Respectfully submitted,

/s/ Dylan L. Jacobs

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Counsel for Appellants

CERTIFICATE OF SERVICE

I certify that on October 6, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to any CM/ECF participants.

/s/ Dylan L. Jacobs
Dylan L. Jacobs